IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7584 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KRISHNA METACRAFT PVT. LTD.

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 7584 of 2002
MR PARESH M DAVE for Petitioner No. 1-2
MR DN PATEL for Respondent No. 1
SERVED BY RPAD - (N) for Respondent No. 2
..... for Respondent No. 3-4

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 11/09/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1 Rule. Service of Rule is waived by Mr.D.N.Patel, Senior Central Government Standing Counsel. At the request of the learned Advocates the petition is finally heard today.

2 In this petition under Article 226 of the Constitution, petitioner No.1 Company and its authorized representative have challenged the coercive recovery of the excise duty during the pendency of the petitioner's appeal and stay application before CEGAT, Mumbai.

3 It is submitted that when the stay application is not yet heard, the respondent - authorities ought not to make any coercive recovery. The learned Counsel for the petitioners has placed reliance on various orders passed by this Court in such matters including the order dated 2nd July,2002 in Special Civil Application No. 5704 of 2002.

4 Having heard Mr.Dave, learned Counsel for the petitioners and Mr.D.N.Patel, Senior Central Govt. Standing Counsel for Union of India and following the aforesaid orders, we direct the Customs, Excise & Gold (Control) Appellate Tribunal, Mumbai to hear and decide the petitioners' stay application in appeal against the order in Appeal No.207/2002/Commr(A)/Raj passed by the Commissioner (Appeals), Rajkot on 15.5.2002, as expeditiously as possible and preferably by 11.10.2002. Till the disposal of the stay application in the aforesaid appeal, the respondents shall not make coercive recovery of the amounts of excise duty and other consequential demands which are covered by the aforesaid stay application.

5 In view of the above direction the petition is allowed. Rule made absolute to the aforesaid extent with no order as to costs. Direct service permitted.

Sd/- Sd/-

(A.R.Dave, J) (D.A.Mehta, J)

m.m.bhatt